

Chief Justice John Roberts, who penned the court's dissenting opinion, also warned of the broad potential consequences of the ruling. He was joined by Justices Samuel Alito, Brett Kavanaugh and Clarence Thomas, except in one footnote of the opinion.

Roberts argued that today's decision would hobble the state's ability to prosecute serious crimes and could lead to decades of convictions being thrown out.

"On top of that, the Court has profoundly destabilized the governance of eastern Oklahoma," the chief justice wrote. "The decision today creates significant uncertainty for the State's continuing authority over any area that touches Indian affairs, ranging from zoning and taxation to family and environmental law."

Jimcy McGirt, a member of the Seminole/Muscogee (Creek) nations, argued in *McGirt v. Oklahoma* that a state court improperly convicted him of sex crimes against a 4-year-old child because the events took place on land that still remained part of the Creek reservation.

Attorneys for McGirt argued to the Supreme Court that his case should instead be reheard by a federal court ([Energywire](#), May 12).

McGirt's position closely mirrored an argument brought in the case *Sharp v. Murphy* that the justices last year punted to this term.

The court's ruling today also resolves the key question in *Sharp*.

Oklahoma has maintained that the Creek Nation does not currently hold a claim to the land, alternately arguing that the claims to the land had either been invalidated or that Congress had instead established a separate entity — a "dependent Indian community" for the Creek Nation.

The court called the argument that the Creek Nation never had a reservation "willful blindness to the statutory language." The justices also rejected claims that subsequent division and sale of the land had dissolved the reservation.

"If Congress wishes to withdraw its promises, it must say so," Gorsuch wrote.

"Unlawful acts, performed long enough and with sufficient vigor, are never enough to amend the law," he continued. "To hold otherwise would be to elevate the most brazen and longstanding injustices over the law, both rewarding wrong and failing those in the right."

Gorsuch said that both Oklahoma and its tribes had "proven time and again" their ability to work as partners.

"Congress remains free to supplement its statutory directions about the lands in question at any time," he added.

### **'Historic step'**

Shortly after the ruling, Oklahoma Attorney General Mike Hunter (R) released a joint statement with the Muscogee (Creek), Cherokee, Chickasaw, Choctaw and Seminole nations that they had made "substantial progress" on an agreement to send to Congress and the Department of Justice to resolve any jurisdictional issues produced by the high court decision.

"The Nations and the State are committed to ensuring that Jimcy McGirt, Patrick Murphy, and all other offenders face justice for the crimes for which they are

accused," they said. "We have a shared commitment to maintaining public safety and long-term economic prosperity for the Nations and Oklahoma."

The court's ruling drew praise from other Native American tribes and lawmakers.

The National Congress of American Indians noted that the issue decided by the court had "loomed over federal Indian law" for two Supreme Court terms.

"This morning, NCAI joined the rest of Indian Country in congratulating the Muscogee (Creek) Nation and proudly asserting that its lands remain, and will forever be considered, Indian country as guaranteed in their treaty relationship with the United States," said NCAI President Fawn Sharp.

Members of Congress also applauded the ruling.

"While no court decision can correct centuries of injustice committed against Indigenous people, today's ruling is a historic step forward to safeguard Tribal sovereignty for decades to come," said New Mexico Sen. Tom Udall (D).

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## Hearing today in wastewater lawsuit

State seeks to make NWA city comply, pay \$80,000 in fines

by *Laurinda Joenks* | Today at 2:54 a.m.

0

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BETHEL HEIGHTS -- The state wants a judge to order Bethel Heights to honor agreements to clean up its wastewater treatment facilities and pay fines for not keeping its end of the bargain.

The Arkansas Division of Environmental Quality sued the city in Benton County Circuit Court. A hearing before Judge John Scott is set for today. The state will ask Scott to order Bethel Heights officials to complete repairs to its wastewater treatment system and move forward with plans to replace the system, both measures city officials agreed to in October.

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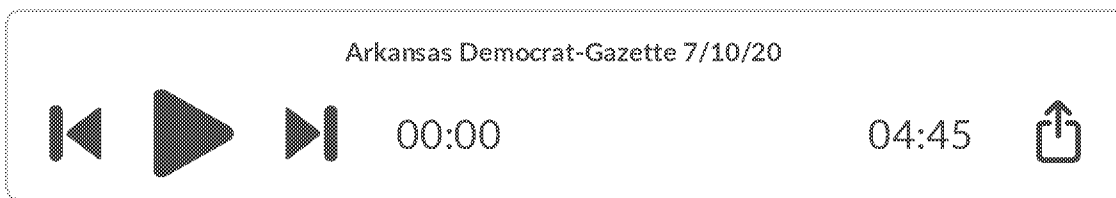
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The state also will rec  
consent agreement o

Records show the city  
since 2015 and had p



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State inspectors have said untreated wastewater continues to pool above ground at the city's two treatment plants and run into the yards of adjacent property owners. The runoff and pooling violate the city's permit from the state.

A June 16 report from the city shows pooling above all treatment zones of the city's plant on Lincoln Street.

The report also notes the city in a 10-day period transferred 610,000 gallons of wastewater for treatment at the Northwest Arkansas Conservation Authority's plant in Bentonville.

The state has required the city to submit weekly progress reports since it issued a notice of violation against the city's permit in August. The reports include evaluations of samples taken from the plant and details of steps taken to improve the system.

The city's permit expires in August. Bethel Heights has submitted its application for a new permit, said Jacob Harper, media and communications manager for the division.

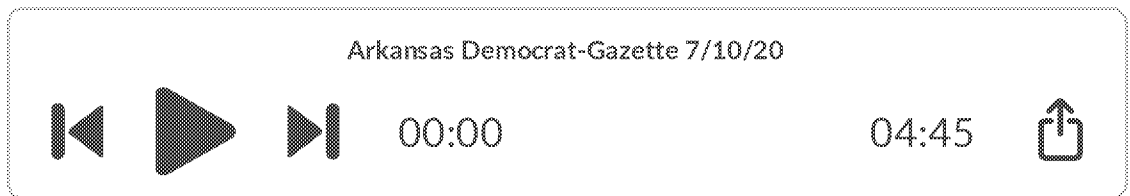
Scott on June 29 denied a request from lawyers representing Bethel Heights, Robert Rhoads of Fayetteville and Samuel Ledbetter of Little Rock, to move the court date to Aug. 15, according to court documents.

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"The parties have engaged given recent developments."

The request also notes the point moot since



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"Recent developments cause DEQ to have concerns about agreeing to any continuance," the division's attorneys responded to the request to delay.

The city's most recent licensed operator of the plant, Garry King, resigned June 8. The previous operator, Vernon "Lynn" Pate, resigned April 30. The state in January suspended for six years the license of Rick Sayre, the city's longtime operator, for filing false reports.

Since King resigned, the city decreased the volume of wastewater hauled from 90,000 gallons per day to 60,000 gallons per day, according to the division lawyers. The city has reported wastewater rising to the surface caused by "overdosing" or sending too much partially treated water into the system.

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Representatives of the city didn't respond to requests for comment last week.

Rhoads issued a statement last month saying Bethel Heights has worked with various governmental and supervisory agencies about its wastewater system and supplied requested documents.

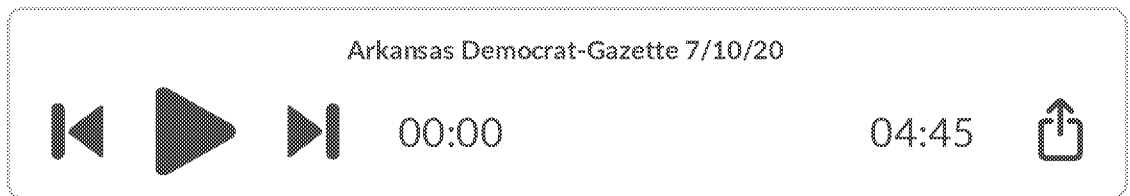
Bethel Heights operates a STEP system, which partially treats wastewater from its roughly 650 customers. After removal of solids, the system releases the water through a drip irrigation system, relying on the soil to complete the purification process.

The city operates two wastewater treatment plants. The other is behind Bowen Park on Oak Street.

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Bethel Heights signed  
alternative for treating

In January and April, the  
continued to operate



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"Bethel Heights' wastewater treatment plants have a long history of noncompliance with the state no-discharge permit," reads a May 2019 letter to the city from the state.

The city was ordered in 2015 to submit a certified engineer's plan for correcting similar complaints, according to documents posted on the website of the Environmental Quality Division. After a certified report the problems were fixed, the state closed the case in January 2017.

The case reopened in March 2019 after Lawrence Bowen filed a complaint with the state about untreated water from the city's Lincoln Street plant overflowing into his yard. Bowen and his wife, Joetta, live next door to the plant.

"Since January 2017, Bethel Heights has reported 43 effluent surfacing events on the dispersal fields ... and 62 additional violations of the permit limit exceedances," according to the May 2019 letter.

The state collected samples for testing around the city's wastewater treatment plants July 16, 2019. Results showed fecal coliform levels higher than the laboratory could measure. The division sent the city a letter July 24 giving officials two days to come up with an interim plan to get its sewer problems under control.

## Topics

[Bethel heights](#), [John Scott](#), [Lincoln street](#), [Northwest Arkansas Conservation Authority](#), [Benton County Circuit Court](#), [Rick Sayre](#), [Springdale](#), [Oak street](#), [Jacob Harper](#), [Lawrence Bowen](#)

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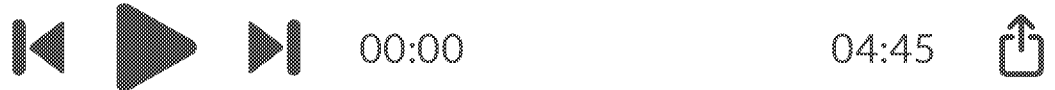
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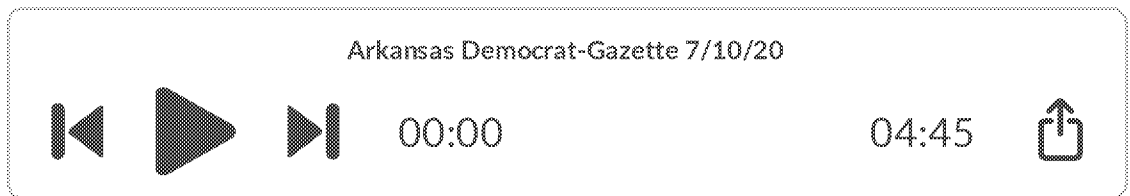
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Message

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**Sent:** 8/7/2020 1:18:00 PM  
**To:** Blanco, Arturo [Blanco.Arturo@epa.gov]  
**Subject:** RE: RTOC Meeting Update on McGirt Decision

Engah

---

**From:** Blanco, Arturo <Blanco.Arturo@epa.gov>  
**Sent:** Friday, August 07, 2020 8:10 AM  
**To:** Allen, Mark <Allen.Mark@epa.gov>  
**Subject:** RE: RTOC Meeting Update on McGirt Decision

Thank you, Mark.

*Arturo J. Blanco, Director*  
Communities, Tribes and Environmental Assessment  
Office of the Regional Administrator  
US EPA Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102  
214.665.3182 (O)  
214.531.8629 (M)

---

**From:** Allen, Mark <Allen.Mark@epa.gov>  
**Sent:** Friday, August 7, 2020 6:38 AM  
**To:** R6 Tribal Directors <R6\_Tribal\_Directors@epa.gov>  
**Cc:** Acosta, Gerardo <Acosta.Gerardo@epa.gov>; Blanco, Arturo <Blanco.Arturo@epa.gov>; Alvarado, Tina <Alvarado.Tina@epa.gov>  
**Subject:** FW: RTOC Meeting Update on McGirt Decision

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Thursday, August 06, 2020 5:40 PM  
**To:** Allen, Mark <Allen.Mark@epa.gov>  
**Cc:** Blanco, Arturo <Blanco.Arturo@epa.gov>; Acosta, Gerardo <Acosta.Gerardo@epa.gov>  
**Subject:** RTOC Meeting Update on McGirt Decision

Mark-please send out on Friday to the Tribal Caucus as an update on the McGirt decision.

Randy

Message

---

**From:** Allen, Mark [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A97A961EA3FF4962A34DE48AECC9413A-ALLEN, MARK]  
**Sent:** 8/7/2020 11:38:06 AM  
**To:** R6 Tribal Directors [R6\_Tribal\_Directors@epa.gov]  
**CC:** Acosta, Gerardo [acosta.gerardo@epa.gov]; Blanco, Arturo [Blanco.Arturo@epa.gov]; Alvarado, Tina [Alvarado.Tina@epa.gov]  
**Subject:** FW: RTOC Meeting Update on McGirt Decision  
**Attachments:** ConsultationRequest.pdf; SAFETEA.OklahomaRequest.2020.7.22.pdf

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**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Thursday, August 06, 2020 5:40 PM  
**To:** Allen, Mark <Allen.Mark@epa.gov>  
**Cc:** Blanco, Arturo <Blanco.Arturo@epa.gov>; Acosta, Gerardo <Acosta.Gerardo@epa.gov>  
**Subject:** RTOC Meeting Update on McGirt Decision

Mark-please send out on Friday to the Tribal Caucus as an update on the McGirt decision.

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Message

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**From:** Allen, Mark [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A97A961EA3FF4962A34DE48AECC9413A-ALLEN, MARK]  
**Sent:** 7/28/2020 7:40:09 PM  
**To:** lallen@tonkawatribe.com  
**Subject:** FW: Link to McGirt recording

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Tuesday, July 28, 2020 2:37 PM  
**To:** Allen, Mark <Allen.Mark@epa.gov>; Gomez, Salina <Gomez.Salina@epa.gov>; Harris, Fincher <harris.fischer@epa.gov>; Hicks, Curtis <hicks.curtis@epa.gov>; Hight, Ira <Hight.Ira@epa.gov>; Olson, Alexandra <olson.alexandra@epa.gov>  
**Cc:** Acosta, Gerardo <Acosta.Gerardo@epa.gov>  
**Subject:** FW: Link to McGirt recording

FYI

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**From:** Alvarado, Tina <Alvarado.Tina@epa.gov>  
**Sent:** Tuesday, July 28, 2020 2:26 PM  
**To:** Gee, Randy <Gee.Randy@epa.gov>  
**Subject:** FW: Link to McGirt recording

This would be good for your team to watch.

---

**From:** Theresa Beaulieu <Theresa.Beaulieu@asu.edu>  
**Sent:** Tuesday, July 28, 2020 1:26 PM  
**To:** tibeauli@asu.edu  
**Subject:** Link to McGirt recording

Hi All,

Thanks for attending our webinar, The most significant Indian Law case of the century: McGirt v. Oklahoma, presented by the Indian Legal Program at Arizona State University.

Here is the link to the recording: <https://asu.zoom.us/rec/share/uPcqKq-o5jtLZoXH0xHQc74fH626aaa81CEY-VbnkZP0FiWv5GGmLkkzqxvB7-DJ%20>

Thanks,  
Theresa



Message

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**From:** Allen, Mark [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A97A961EA3FF4962A34DE48AECC9413A-ALLEN, MARK]  
**Sent:** 7/9/2020 2:30:15 PM  
**To:** lallen@tonkawatribe.com  
**Subject:** FW: McGirt Opinion - link

Hmmm....This should get interesting.

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Thursday, July 09, 2020 9:16 AM  
**To:** Allen, Mark <Allen.Mark@epa.gov>; Gomez, Salina <Gomez.Salina@epa.gov>; Harris, Fincher <harris.fischer@epa.gov>; Hicks, Curtis <hicks.curtis@epa.gov>; Hight, Ira <Hight.Ira@epa.gov>; Olson, Alexandra <olson.alexandra@epa.gov>; Blanco, Arturo <Blanco.Arturo@epa.gov>; Acosta, Gerardo <Acosta.Gerardo@epa.gov>  
**Subject:** FW: McGirt Opinion - link

Creek Nation reservation never disestablished-Supreme Court ruling

---

**From:** Alvarado, Tina <Alvarado.Tina@epa.gov>  
**Sent:** Thursday, July 09, 2020 9:12 AM  
**To:** Gee, Randy <Gee.Randy@epa.gov>  
**Subject:** McGirt Opinion - link

[https://www.supremecourt.gov/opinions/19pdf/18-9526\\_9okb.pdf](https://www.supremecourt.gov/opinions/19pdf/18-9526_9okb.pdf)

Tina Alvarado  
Assistant Regional Counsel  
Tribal and Cross-Cutting Law  
U.S. Environmental Protection Agency  
Office of Regional Counsel, 6RC-D  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733  
(214) 665-2709

Message

---

**From:** Gee.Randy@epa.gov [Gee.Randy@epa.gov]  
**Sent:** 7/31/2020 7:53:59 PM  
**To:** ckreman [ckreman@quapawnation.com]  
**Subject:** Re: NTAA Webinar concerning McGirt case

I don't know Joseph. His sister and my daughter were friends at Tahlequah High School and I met his dad through high band activities. I believe Sheila Sevenstar at ITEC and Joseph are cousins.

Sent from my iPhone

On Jul 31, 2020, at 2:45 PM, Craig Kreman <ckreman@quapawnation.com> wrote:

Joseph Byrd will become the new Chairman for Quapaw Nation on August 15<sup>th</sup> when they are sworn in at the next Business Committee meeting?

Do you know Joseph?

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Friday, July 31, 2020 2:44 PM  
**To:** Craig Kreman <ckreman@quapawnation.com>  
**Subject:** RE: NTAA Webinar concerning McGirt case

Hello Craig,

I can check with Tina Alvarado who is our tribal law attorney.

On another note, is Joseph Byrd now the Chairman for Quapaw Nation? We are updating our tribal contact list and didn't know when his term would start.

Have a good weekend.

Randy

---

**From:** Craig Kreman <ckreman@quapawnation.com>  
**Sent:** Friday, July 31, 2020 2:17 PM  
**To:** Gee, Randy <Gee.Randy@epa.gov>  
**Subject:** NTAA Webinar concerning McGirt case

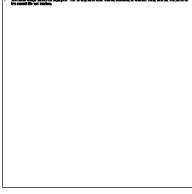
Randy,

We have been talking at NTAA about having a webinar around the decision from the McGirt case. Do you know of anyone in R6 that would be willing to talk to the decision?

I know we have Regional Counsel representation talk at the RTOC Meeting last week. I wonder if they would be willing to do the same thing for an NTAA webinar.

Thanks,

Craig Kreman, P.E.  
Environmental Engineer  
Quapaw Nation



# HONOR NATIVE LAND: A GUIDE AND CALL TO ACKNOWLEDGMENT

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*Marchers at Standing Rock 2016; Photo by Nicholas Ward*

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We call on all individuals and organizations to open all public events and gatherings with acknowledgment of the traditional Native inhabitants of the land.

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USDAC.US | HELLO@USDAC.US



## U.S. DEPARTMENT OF ARTS AND CULTURE

HELLO@USDAC.US | USDAC.US

Dear Citizen Artist,

We launch this guide in the lead-up to Indigenous People's Day 2017, when each of us is free to choose whether to accept and perpetuate a distorted history or stand for truth and reconciliation grounded in acknowledgment. The time is long overdue for everyone to open all public events and gatherings with acknowledgment of the traditional Native inhabitants of the land. Please help to spread this guide, encouraging your colleagues, neighbors, officials, and institutions to adopt this practice as well.

The U.S. Department of Arts and Culture is a people-powered department, a grassroots action network inciting creativity and social imagination to shape a culture of empathy, equity, and belonging. We are grateful to all of the partners whose work inspired this guide. Special thanks to the following individuals who offered insight and support in its creation: T. Lulani Arquette (Native Hawaiian), Daniel Banks, Sherry Salway Black (Oglala Lakota), Lori Pourier (Oglala Lakota), Shirley Sneve (Rosebud Sioux), Rulan Tangen (mixed Indigenous heritage), Josh Reid (Snohomish), Tanaya Winder (Duckwater Shoshone/Pyramid Lake Paiute/Southern Ute) and Larissa FastHorse (Sicangu Nation Lakota) and Ty Defoe (Ojibwe/Oneida) of Indigenous Direction. Thank you to Nicholas Ward, Connie Fitzpatrick, and the Native Arts and Cultures Foundation for use of their photographs, and Keith BraveHeart (Oceti Sakowin: Oglala Lakota), Bunky Echo-Hawk (Pawnee/Yakama), Marlena Myles (Spirit Lake Dakota), Bryan D. Parker (Muscogee Creek/Choctaw/White Mountain Apache), Remy (Diné), and William Wilson (Diné) for the use of their artwork. Any omissions or errors are the responsibility of the USDAC.

Please feel free to be in touch: [hello@usdac.us](mailto:hello@usdac.us).

With gratitude,

*The USDAC*

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# TABLE OF CONTENTS

INTRODUCTION.....	2
WHAT IS LAND ACKNOWLEDGMENT? .....	3
WHY INTRODUCE THE PRACTICE OF LAND ACKNOWLEDGMENT?; A FEW DISCLAIMERS ABOUT ACKNOWLEDGMENT	
HOW TO ACKNOWLEDGE.....	5
STEP ONE: IDENTIFY; STEP TWO: ARTICULATE; STEP THREE: DELIVER	
BEYOND ACKNOWLEDGMENT .....	9
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*"Before Here Was Here" by Bunky Echo-Hawk (Pawnee/Yakama)*

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PAGE 1



# INTRODUCTION

*We were a people before “We the People.”*

Jefferson Keel (Chickasaw), 20th President of the National Congress of American Indians, 2013

IN COUNTRIES SUCH AS NEW ZEALAND, AUSTRALIA, CANADA, AND AMONG TRIBAL NATIONS IN THE U.S., it is commonplace, even policy, to open events and gatherings by acknowledging the traditional Indigenous inhabitants of that land. While some individuals and cultural and educational institutions in the United States have adopted this custom, the vast majority have not.

*Together, we can spark a movement to make acknowledgment of traditional lands a regular practice at public and private events.*

Acknowledgment is a simple, powerful way of showing respect and a step toward correcting the stories and practices that erase Indigenous people’s history and culture and toward inviting and honoring the truth. Imagine this practice widely adopted: imagine cultural venues, classrooms, conference settings, places of worship, sports stadiums, and town halls, acknowledging traditional lands. Millions would be exposed—many for the first time—to the names of the traditional

Indigenous inhabitants of the lands they are on, inspiring them to ongoing awareness and action.

For more than five hundred years, Native communities across the Americas have demonstrated resilience and resistance in the face of violent efforts to separate them from their land, culture, and each other. They remain at the forefront



of movements to protect Mother Earth and the life the earth sustains. Today, corporate greed and federal policy push agendas to extract wealth from the earth, degrading sacred land in blatant disregard of treaty rights. Acknowledgment is a critical public

intervention, a necessary step toward honoring Native communities and enacting the much larger project of decolonization and reconciliation.

*We call on all artists, cultural workers, public officials, educators, administrators, community leaders, organizers, and engaged community members to open all public events and gatherings with acknowledgment of the traditional Native inhabitants of the land.*

*Photo courtesy of Native Arts and Cultures Foundation*

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PAGE 2

ED\_005022\_00000233-00004



# WHAT IS LAND ACKNOWLEDGMENT?

Acknowledgment by itself is a small gesture. It becomes meaningful when coupled with authentic relationships and informed action. But this beginning can be an opening to greater public consciousness of Native sovereignty and cultural rights, a step toward equitable relationship and reconciliation. Join us in adopting, calling for, and spreading this practice.

Naming is an exercise in power. Who gets the right to name or be named? Whose stories are honored in a name? Whose are erased? Acknowledgment of traditional land is a public statement of the name of the traditional Native inhabitants of a place. It honors their historic relationship with the land.

*A Land Acknowledgment is a formal statement that recognizes the unique and enduring relationship that exists between Indigenous Peoples and their traditional territories.*

Laurier Students' Public Interest Research Group, Ontario, Canada

<http://www.lspirg.org/knowtheland/>

## WHY INTRODUCE THE PRACTICE OF LAND ACKNOWLEDGMENT?



Photo by Nicholas Ward

- Offer recognition and respect.
- Counter the "doctrine of discovery" with the true story of the people who were already here.
- Create a broader public awareness of the history that has led to this moment.
- Begin to repair relationships with Native communities and with the land.
- Support larger truth-telling and reconciliation efforts.
- Remind people that colonization is an ongoing process, with Native lands still occupied due to deceptive and broken treaties and practices of eminent domain and other mechanisms intended to benefit government or corporate America.
- Take a cue from Indigenous protocols, opening up spaces with reverence and respect.
- Inspire ongoing action and relationships.

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PAGE 3



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Many countries are far ahead of the United States in adopting this practice. In Australia, New Zealand, and Canada there are protocols, maps, and pronunciation guides readily available. Many universities have made acknowledgment a policy, providing simple templates for students, staff, and faculty. Beginning in 2016, all Toronto public schools began opening their school days with a statement of acknowledgment.

The University of Alberta offers this explanation of acknowledgment:

*To acknowledge the traditional territory is to recognize its longer history, reaching beyond colonization and the establishment of European colonies, as well as its significance for the Indigenous peoples who lived and continue to live upon this territory, and whose practices and spiritualities were tied to the land and continue to develop in relationship to the land and its other inhabitants today.*

Acknowledgment in these countries is a small part of a more significant commitment to truth and reconciliation—including official government apologies and truth commissions leading to significant public recommendations and reforms.

In Australia, many formal events begin with a “Welcome to Country.” While a Land Acknowledgment can be offered by anyone hosting or leading an event, a Welcome to Country is offered by an Indigenous elder or community leader. The custom is to offer compensation for leading this more formal ceremonial welcome.

### A FEW DISCLAIMERS ABOUT ACKNOWLEDGMENT:

- **It’s simple. And also not so simple.** In some cases the traditional inhabitants of a place may be clear. In other cases whom to recognize is much less so. Do your research. While the act of naming traditional inhabitants may not take much time, moving into right relationship requires preparation.
- **This guide doesn’t offer the one right way to acknowledge.** What’s offered here is not a comprehensive checklist or set of universally acceptable protocols. There are currently 567 federally recognized tribal nations, each with its own history and protocols for welcome and acknowledgment. There are also state-recognized tribes and peoples, including Native Hawaiians who reside on six islands. There is no one way of doing this.
- **Acknowledgment is made meaningful through specific context and relationship.** Whenever possible, the best entry point into the practice of acknowledgment is through relationship and dialogue with Native communities in the area.
- **The practice of formal welcome and acknowledgment of land is not new.** Acknowledgment has long been practiced—typically in much more nuanced, formal, and ceremonial ways—within Indigenous communities. Many artists, activists, presenters, academics, and others have been starting events with acknowledgment for decades. By publishing this guide, we hope to draw on these histories to help spark a movement to make acknowledgment commonplace.
- **Acknowledgment is but a first step.** It does not stand in for relationship and action, but can begin to point toward deeper possibilities for decolonizing relationships with people and place.

**DID YOU KNOW?** Between 1776 and 1887, the United States seized over 1.5 billion acres from America’s indigenous people by treaty and executive order.

*This interactive Invasion of America map shows how that happened over time. Note that Alaska and Hawaii are not included.*

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PAGE 4

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# HOW TO ACKNOWLEDGE

Below are suggested steps to acknowledging traditional land at the opening of a public gathering or event. The best way to root this practice in a local context is through dialogue with local Native groups. Not yet having those relationships doesn't mean you can't begin.

## STEP ONE: IDENTIFY

The first step is identifying the traditional inhabitants of the lands you're on. This task may be complicated by multiple and contested histories of settlement, resettlement, and recognition. Many places are now home to Native people who have called that land home from time immemorial and also to those relocated from elsewhere. The goal of acknowledgment is recognizing and uplifting, not hurting or causing further division. So it is important to proceed with care, doing good research before making statements of acknowledgment.

Here are some places you can look online:

- Wikipedia entries on many cities document some history of Indigenous inhabitation. Be sure to cross-check what you find there with other sources.
- This map of Native Land is one of the more comprehensive maps available: <https://native-land.ca/>
- The Native Languages site offers breakdown by state, with contact information for local tribes: <http://www.native-languages.org/>

In addition to consulting local Native individuals and organizations, you can check to see if there are resources at local universities and colleges, especially those with American Indian/Native/Indigenous Studies centers, programs, and/or departments.

If multiple tribal groups claim belonging to the land, consider not naming one particular group or naming all of them. Ideally, this decision should be made through dialogue with local Native elders and culture bearers, respecting their wishes about how they desire to be named.

**A DEEPER STEP:** Identify Native elders and culture-bearers in your region to join in a conversation about how they would like to see this practice take shape locally, particularly how it could be of greatest benefit for their communities. You can use this guide as a jumping-off place for conversation. If you are part of an organization or group, consider offering an honorarium to those who take part in the dialogue. This dialogue could also be a public forum, engaging others who want to learn about this practice. Or you could share a video, transcript, or other reporting to inform and engage the wider community.

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PAGE 5

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## STEP TWO: ARTICULATE

Once you've identified the group or groups who should be recognized, formulate the statement of acknowledgment you'll share at the beginning of public gatherings. There is no exact script for this. Craft yours after considering several levels of detail you might introduce.

At its simplest, an acknowledgment could look like this:

**"We acknowledge that we are on the traditional land of the \_\_\_\_\_ People."**

Beginning with just this simple sentence would be a meaningful intervention in most U.S. gathering spaces.

From there, there are many other elements to bring into acknowledgment:

Often, statements specifically honor elders:

**"I would like to acknowledge that this meeting is being held on the traditional lands of the \_\_\_\_\_ People, and pay my respect to elders both past and present."**

Some allude to the caring, reciprocal relationship with land:

**"I want to respectfully acknowledge the \_\_\_\_\_ People, who have stewarded this land throughout the generations."**

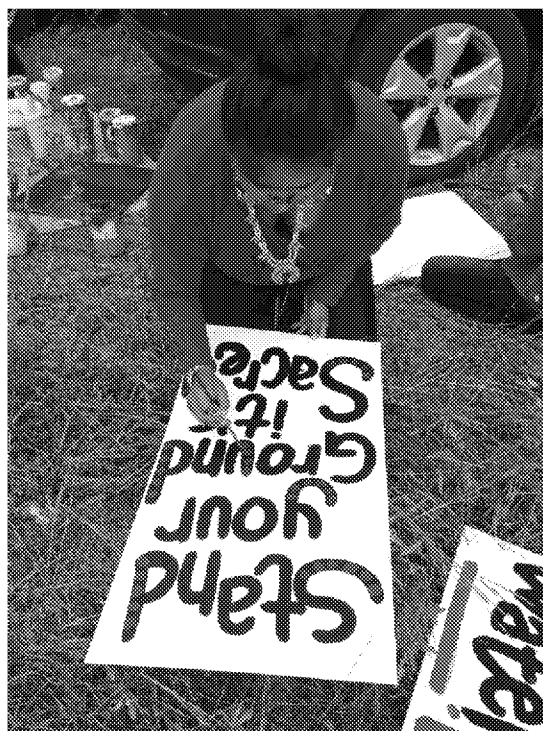
Acknowledgments may also make explicit mention of the occupied, unceded nature of the territory in which a gathering is taking place:

**"We would like to begin by acknowledging that the land on which we gather is the occupied/unceded/seized territory of the \_\_\_\_\_ People."**

**"I would like to begin by acknowledging that we are in \_\_\_\_\_, the ancestral and unceded territory of the \_\_\_\_\_ People."**

In Canada it is not uncommon to make mention of the specific treaties by which land was designated to a particular tribal group. You may wish to do additional research to name the moment at which treaties were made as well as when they were broken and land unlawfully taken.

The truth is complicated. Beneath the contemporary surface of any site in the United States, there are histories of belonging that have been erased, overlooked, contested and forgotten, all ways to support ideas like "manifest destiny" which justified the conquest of Native lands. Lengthier statements of acknowledgment can center Native communities while also acknowledging the many communities that have contributed to the existing culture of place. For example:



*Photo by Connie Fitzpatrick*

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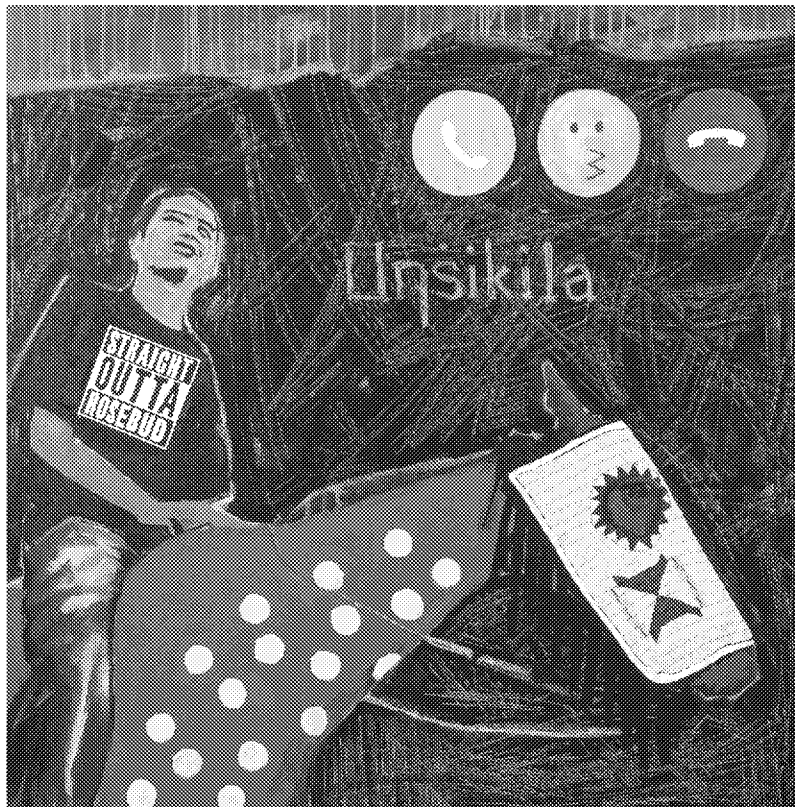
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PAGE 6

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"Every community owes its existence and vitality to generations from around the world who contributed their hopes, dreams, and energy to making the history that led to this moment. Some were brought here against their will, some were drawn to leave their distant homes in hope of a better life, and some have lived on this land for more generations than can be counted. Truth and acknowledgment are critical to building mutual respect and connection across all barriers of heritage and difference. We begin this effort to acknowledge what has been buried by honoring the truth. We are standing on the ancestral lands of the \_\_\_\_\_ People [if possible, add more specific detail about the nature of the occupied land]. We pay respects to their elders past and present. Please take a moment to consider the many legacies of violence, displacement, migration, and settlement that bring us together here today. And please join us in uncovering such truths at any and all public events."

You may choose to begin with a simple statement of acknowledgment and elaborate over time as you learn more, build relationships with members of local Native communities, and grow more comfortable with the practice.



*"Takunsa Unsikila"*  
by Keith BraveHeart  
(Oceti Sakowin: Oglala Lakota)

**DID YOU KNOW?** "There are 567 federally recognized Indian Nations (variously called tribes, nations, bands, pueblos, communities and native villages) in the United States... Additionally, there are state recognized tribes located throughout the United States recognized by their respective state governments."

*Learn more from the National Congress of American Indians*

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PAGE 7

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## STEP THREE: DELIVER

Once you've identified whom to name and practiced your statement (including pronunciation of names), offer your acknowledgment as the first element of a welcome to the next public gathering or event that you host. If in the process of learning about acknowledgment you've built relationships with members of Native communities, consider inviting them to give a welcome before yours.

There's a danger that a practice like this becomes just another piece of protocol, delivered flatly and falling on deaf ears. How many times have you spaced out as the flight attendant goes through emergency procedures? Or failed to silence your cell phone even though that was requested at the beginning of a show?

Acknowledgment should be approached not as a set of obligatory words to rush through. These words should be offered with respect, grounded in authentic reflection, presence, and awareness. As you step up to offer acknowledgment, breathe in awareness of both the present and of the histories that connect you with the people you are naming. Consider your own place in the story of colonization and of undoing its legacy. At your next gathering, try acknowledgment out, see how it feels, observe how or if it shifts the room. Over time, through practice, you'll learn more about what it means and what it opens up for you and others.

Statements of acknowledgment don't have to be confined to spoken words. Some artists, scholars, activists, and others have begun to include acknowledgment in email signatures or on websites. Consider using social media to amplify your acknowledgment. For example, post an image or a story of an event where your acknowledgment was offered, tagging it **#HonorNativeLand** to inspire others..

Any space, three-dimensional or digital, presents an opportunity to surface buried truths and lift up Native sovereignty, priming our collective culture for deeper truth and reconciliation efforts.



*"Annual Canoe  
Journey, Washington"  
Photo courtesy of  
Native Arts and  
Cultures Foundation*

"We are still America. We Know the rumors of our demise. We spit them out. They Die Soon."

Joy Harjo (Muscogee), 2015 *Poetic Address to the Nation*

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PAGE 8

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# BEYOND ACKNOWLEDGMENT

Acknowledgment is the beginning. Acknowledgment—and the research required to do it with integrity—should be an invitation to deeper analysis, relationship, and action.

"I think we need to start imagining a constellation of relationships that must be entered into beyond territorial acknowledgments. Great, that's awesome you know you're on (for example) Treaty 6 territory. That's great you acknowledge that perhaps the Indigenous view of that treaty, that the land was not surrendered, is correct. Perhaps you understand the tension of your presence as illegitimate, but don't know how to deal with it beyond naming it. Maybe now it is time to start learning about your obligations as a guest in this territory. What are the Indigenous protocols involved in being a guest, what are your responsibilities? What responsibilities do your hosts have towards you, and are you making space for those responsibilities to be exercised? To what extent are your events benefiting your hosts?"

– Chelsea Vowel, Métis from the Plains Cree speaking community of Lac Ste. Anne, Alberta  
<http://apihtawikosisan.com/2016/09/beyond-territorial-acknowledgments/>

## LEARN MORE

Take time to learn about the Indigenous history of the land you live on, as well as the contemporary context of Native groups in your region. Search for books, articles, people, and organizations that you can learn from.

- Find syllabi online to follow on your own or with a study group. Here is an example of a thoughtful syllabus created in solidarity with efforts at Standing Rock to resist the construction of the Dakota Access Pipeline.
- For an overview of Tribal Nations and their historical relationship to the U.S. government, read this primer from the National Congress of American Indians.
- Educate yourself on the history of settler colonialism and genocide in the United States by reading (or listening to) *An Indigenous People's History of the United States* by Roxanne Dunbar-Ortiz.
- Learn about the history of broken treaties in the U.S. and about Indigenous sovereignty movements to correct for past injustices. Read the American Indian Movement's "Trail of Broken Treaties 20 Point Position Paper" [here](#). Read about the Native Hawaiian sovereignty movement [here](#). Read Suzan Shown Harjo's *Nation to Nation: Treaties Between the United States and American Indian Nations*.
- Read the United Nations Declaration on the Rights of Indigenous Peoples. The United States was one of four nations to vote against the declaration when it was first adopted in 2007. It was the last of the four to reverse that in 2010.
- Where can a Truth and Reconciliation process lead? Check out the calls to action that emerged from Canada's commission.

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PAGE 9

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- Consider that the 2010 Census listed the percentage of urban Native people at 71%. Many Indigenous people are among those seeking or building community in cities.

## **BUILD RELATIONSHIPS AND TAKE ACTION**

- Find out if there are active Native groups or organizations in or near your community. Learn about their work and see how you can support them.
- Be in touch with local Native community members to discern how best to introduce the practice of acknowledgment and explore how that might lead to further dialogue and collaboration.
- Look around and ask yourself: are there Native folks present at your events? On your team? On your board? If not, what would it take to begin building those relationships? How might you move from acknowledgment into relationship? If your role involves programming at a cultural or educational institution, how might you ensure that the programming itself represents a commitment to Native voices, stories, and perspectives?
- Follow Indigenous leadership on efforts to resist destruction of land and life. Read this powerful call to action from Indigenous Women Rising.

## **A FEW ORGANIZATIONS TO CHECK OUT:**

- **Native Arts and Cultures Foundation.** Expose yourself to the work of Native artists, poets, musicians, authors, filmmakers working in community.
- **Indigenous Environmental Network,** “an alliance of Indigenous Peoples whose Shared Mission is to Protect the Sacredness of Earth Mother from contamination & exploitation by Respecting and Adhering to Indigenous Knowledge and Natural Law.”
- **National Congress of American Indians:** NCAI “founded in 1944, is the oldest, largest and most representative American Indian and Alaska Native organization serving the broad interests of tribal governments and communities.”
- **First People’s Fund** works to “honor and support the Collective Spirit® of First Peoples artists and culture bearers.”
- **Vision Maker Media** “empowers and engages Native People to tell stories.”
- **Cultural Survival** “advocates for Indigenous Peoples’ rights and supports Indigenous communities’ self-determination, cultures and political resilience.”
- **Endangered Language Alliance:** NYC-based organization that “documents and describes underdescribed and endangered languages, educating a larger public and collaborating with communities.”
- **Indian Country Media Network:** Source for Native news. On hiatus, but archive still accessible.

## **DOWNLOAD ART OR MAKE YOUR OWN!**

Imagine going to a local coffee shop, music venue, grocery store, or even town hall, and finding a sign on the wall acknowledging traditional lands. Sound far-fetched? It doesn’t have to be! As part of this campaign to #HonorNativeLands, we partnered with several artists to create downloadable signs that you can customize and post in your community. Signs and posters are available for download from the **Honor Native Land Public Folder**.

You are also invited to make your own signs or posters. Consider partnering with local artists and a local printshop to make a customized set of acknowledgment posters for your community.

## **SPREAD THE WORD**

Share the guide and call to action. In the **Honor Native Land Public Folder** there are sample social media posts, signs and other materials that you can use to spread the word about this campaign. Use the hashtag #HonorNativeLand.

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PAGE 10

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## TAKE THE PLEDGE

We urge organizations, collectives, institutions, and agencies to publicly commit to practicing traditional Native land acknowledgment. To stand and be counted and to inspire others with your commitment, take the pledge [here](#).

## ABOUT THE USDAC

The U.S. Department of Arts and Culture (USDAC) is a people-powered department—a grassroots action network inciting creativity and social imagination to shape a culture of empathy, equity, and belonging. Since 2014, the USDAC has engaged more than 25,000 artists, activists, and allies in 40+ states in arts-based dialogues and actions. By creating opportunities for learning, connection, and collective action at the local and national level, the USDAC works toward a society that affirms the right to culture; values each community's heritage, contributions, and aspirations; and dismantles all barriers to love and justice. For more information and to get involved visit: [www.usdac.us](http://www.usdac.us).

## BE IN TOUCH

Did this guide inspire you to action? Do you already have stories of success or challenges implementing acknowledgment as a practice at your organization or institution? Do you want to strategize about how to spread the practice of acknowledgment in your region or create a campaign to introduce acknowledgment as official policy in your town or city?

We'd love to hear from you. Drop us a line at [hello@usdac.us](mailto:hello@usdac.us).



*"Auto Immune Response" by William Wilson (Diné)*

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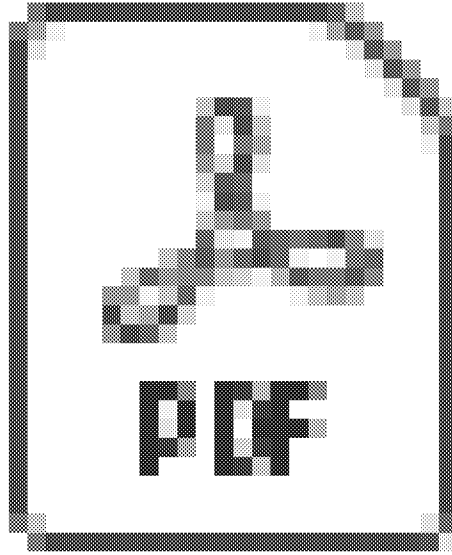
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PAGE 11

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# Honor Native Land Guide - USDAC.pdf

## Appointment

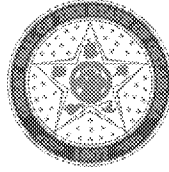
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**From:** Gee, Randy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=186E0AABC3E04D258DB13B8BFA93CDC4-GEE, RANDY]  
**Sent:** 7/16/2020 7:58:08 PM  
**To:** Jones, Curry [jones.curry@epa.gov]  
**Subject:** Accepted: Tulsa Supreme Court Discussion (McGirt v. Oklahoma)  
**Location:** Microsoft Teams Meeting  
**Start:** 7/29/2020 6:00:00 PM  
**End:** 7/29/2020 7:00:00 PM  
**Recurrence:** (none)

## Appointment

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**From:** Gee, Randy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=186E0AABC3E04D258DB13B8BFA93CDC4-GEE, RANDY]  
**Sent:** 7/16/2020 7:10:15 PM  
**To:** Wilson, Erika [Wilson.Erika@epa.gov]  
**Subject:** Accepted: McGirt talking points  
**Location:** Microsoft Teams Meeting  
**Start:** 7/17/2020 6:00:00 PM  
**End:** 7/17/2020 7:00:00 PM  
**Recurrence:** (none)



J. Kevin Stitt  
Office of the Governor  
State of Oklahoma

July 22, 2020

Andrew Wheeler, Administrator  
Environmental Protection Agency  
Mail Code: 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: The State of Oklahoma's Request to Administer EPA Approved Environmental Programs  
in Areas of the State that are in Indian Country

Dear Administrator Wheeler:

Consistent with the extent to which the State of Oklahoma implemented environmental programs throughout the State prior to the U.S. Supreme Court's recent decision in *McGirt v. Oklahoma*, 591 U.S. \_\_\_\_ (2020), the State of Oklahoma requests approval to administer all U.S. Environmental Protection Agency ("EPA") approved environmental programs in areas of the State that are in Indian Country (except as outlined below under "Exceptions to Request") pursuant to § 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 ("SAFETEA"), Public Law 109-59, 119 Stat. 1144 (Aug. 10, 2005).<sup>1</sup> This request includes all Oklahoma environmental programs approved by EPA, and specifically includes but is not limited to the following programs:

**Oklahoma Department of Environmental Quality:**

***Land Protection Division -***

- Resource Conservation and Recovery Act ("RCRA") Programs
  - Subpart C hazardous waste program, 40 C.F.R. Part 262, Subpart LL

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<sup>1</sup> This request is only seeking approval to the extent that such approval is necessary for the State to administer a program in light of *Oklahoma Dept. of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014) and the Stigler Act, 25 U.S.C. §§ 331 *et seq.*

- Subpart D permit program, 59 Fed. Reg. (Aug. 16, 1994)
- Coal Combustion Residual (“CCR”) State Program: program approval, 83 Fed. Reg. 30356 (June 28, 2018)
- **Safe Drinking Water Act, 42 U.S.C. § 300h *et seq.*, Underground Injection Control Programs –**
  - Underground Injection Control (“UIC”) for Classes I, III, IV and V wells, 40 C.F.R. Part 147, Subpart LL, § 147.1850

***Air Quality Division -***

- **Clean Air Act Programs –**
  - State Implementation Plan (40 C.F.R. Part 52, Subpart LL, §§ 52.1920 – 52.1960)
  - State Operating Permits Program (“Title V Program”), 40 C.F.R. Appendix A-2, Part 70 (State of Oklahoma)
  - Standards of Performance for New Stationary Sources (“NSPS”), 40 C.F.R. Part 60, Subpart A, § 60.4(b)(38)
  - National Emission Standards for Hazardous Air Pollutants (“NESHAP”), 40 C.F.R. Part 61, Subpart A, §§ 61.04(b)(38) and 61.04(c)(6)(iv)
  - Approval and Promulgation of State Plans for Designated Facilities and Pollutants, 40 C.F.R. Part 62, Subpart LL, §§ 62.9100 *et seq.*
  - National Emission Standards for Hazardous Air Pollutants (“NESHAP”), Delegation Status for Part 63 Standards - State of Oklahoma, 40 C.F.R. Part 63, Subpart A, § 63.99(a)(37)
  - Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities (“Lead-Based Paint Program”), 63 Fed. Reg. 49574 (Sept. 16, 1998)
  - Lead-Based Paint Renovation, Repair and Painting, and Pre-Renovation Education Activities in Target Housing and Child Occupied Facilities (“RRP Program”), 79 Fed. Reg. 1799 (Jan. 10, 2014)
  - Ambient Air Monitoring Reference and Equivalent Methods, 40 C.F.R. Part 53 and Ambient Air Quality Surveillance, 40 C.F.R. Part 58

***Water Quality Division -***

- **Clean Water Act, 33 U.S.C. §1251 *et seq.*, Delegated Programs -**
  - Water Quality Related Effluent Limitations, 33 U.S.C. § 1312
  - Effluent Limits, 33 U.S.C. § 1311
  - National Performance Standards, 33 U.S.C. § 1316
  - Toxic and Pretreatment, 33 U.S.C. § 1317
  - National Pollutant Discharge Elimination System, 33 U.S.C. § 1342

- Disposal of Sewage Sludge, 33 U.S.C. § 1345
  
- **Safe Drinking Water Act, 42 U.S.C. § 300f, *et seq.*, Primacy Programs -**
  - Interim Enhanced Surface Water Treatment Rule
  - Stage 1 Disinfection Byproducts Rule
  - Consumer Confidence Rule
  - Administrative Penalty Authority
  - Arsenic Rule
  - Public Notification Rule
  - Radionuclide Rule
  - Filter Backwash Recycling Rule
  - Long Term 1 Surface Water Treatment Rule
  - New PWS Definition
  - Lead and Copper Rule
  - Stage 2 Disinfection Byproducts Rule
  - Long Term 2 Surface Water Treatment Rule
  - Ground Water Rule
  - Revised Total Coliform Rule
  - Variance and Exception Rule

**Oklahoma Department of Agriculture, Food and Forestry:**

- **Clean Water Act, 33 U.S.C. §1251 *et seq.*, Delegated Programs –**
  - National Pollutant Discharge Elimination System, 33 U.S.C. § 1342 (includes Concentrated Animal Feeding Operations, Pesticides, and Storm water from agricultural construction)

**Oklahoma Water Resources Board:**

- **Clean Water Act, 33 U.S.C. §1251 *et seq.* –**
  - Water Quality Standards and Implementation plans, 33 U.S.C. § 1313

**Oklahoma Corporation Commission:**

- State Underground Storage Tank Prevention Detection and Compliance (2 C.F.R. § 200; 2 C.F.R. § 1500; 40 C.F.R. § 33; 40 C.F.R. § 35(a))
- Leaking Underground Storage Tank Trust Fund Program (Corrective Action) (2 C.F.R. § 200; 2 C.F.R. § 1500; 40 C.F.R. § 33)

- State & Tribal Response Program (2 C.F.R. § 200; 2 C.F.R. § 1500; 40 C.F.R. § 33; 40 C.F.R. § 35(a))
- State Underground Water Source Protections (2 C.F.R. § 200; 2 C.F.R. § 1500; 40 C.F.R. § 33; 40 C.F.R. § 35(a); 40 C.F.R. § 147.1851)

### **EXCEPTIONS TO REQUEST**

This request does not seek approval to administer any programs in Indian country on lands, including rights-of-way running through the same, that -

- (A) Qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. § 1151(c);
- (B) Are held in trust by the United States on behalf of an individual Indian or Tribe; or
- (C) Are owned in fee by a Tribe, if the Tribe –
  - (i) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party; and
  - (ii) never allotted the land to a member or citizen of the Tribe.

Furthermore, this request does not seek approval to administer the Oklahoma Corporation Commission (“OCC”)’s UIC Program for Class II wells (40 C.F.R. Part 147, Subpart LL, § 147.1851) in Osage County, Oklahoma.

The environmental programs covered by this request include but are not limited to programs administered by the following State agencies: the Oklahoma Department of Environmental Quality; the Oklahoma Department of Agriculture, Food and Forestry; the Oklahoma Water Resources Board; and the OCC. The State of Oklahoma reserves the right to amend this request or make future requests for approval pursuant to SAFETEA.

Thank you for your consideration and action on this request. If you have any questions or need further information, please contact Kenneth E. Wagner, Oklahoma Secretary of Energy & Environment, at [Kenneth.Wagner@ee.ok.gov](mailto:Kenneth.Wagner@ee.ok.gov) or (405) 522-7099.

Sincerely,



Kevin Stitt  
Governor of the State of Oklahoma

### **Possible Topic Questions-**

1. How does the Muscogee Creek Nation build Equity in environmental concerns, within its own lands, without the constraint of approval from the State of Oklahoma?
2. Does the EPA see the Muscogee Creek Nation as a Collaborative and Coordination Partner or a Consultation Necessity? Management oversight and reporting to ensure accountability and transparency during the Consultation process is fine, but consultation only reaches so far. Should there be more emphasis placed on management oversight and accountability, through collaboration and coordination between agencies, for the environment and natural resources we all hope to protect?
3. As a Sovereign Nation and Reservation, How will the EPA fulfill its Congressional Duties to improve the methods and processes in place to meet the commitment to honor and respect tribal treaty rights and resources protected by treaties?
4. The U.S. Environmental Protection Agency was one of the first federal agencies with a formal policy specifying how it would interact with tribal governments and consider tribal interests in carrying out its programs to protect human health and the environment. The EPA Policy for the Administration of Environmental Programs on Indian Reservations, signed in 1984, remains the cornerstone for EPA's Indian program. How is this cornerstone holding up under the pressure of a State Government?
5. Would the protection of human health and the environment within a reservation be considered of possible tribal interest to the EPA? It is for the Muscogee Creek Nation and for the additional 573 Federally Recognized Tribes within the United States.
6. What is the connection between a Transportation Act and the right of the State of Oklahoma to request approval to administer all environmental programs in Indian Country?
7. Was the Muscogee Creek Nation Reservation established before the State of Oklahoma?
8. Are the Treaties of 1833 and 1856 earlier than Statehood in 1907 or the SAFETEA of 2005? Which would set a precedent?
9. Has the State of Oklahoma shown past attempts to decrease the Sovereign Rights of tribal reservations and their citizens? (Ex.McGirt v. Oklahoma)
10. Was the 1856 Treaty that promised that "no portion" of Creek lands "would ever be embraced or included within, or annexed to, any Territory or State," and that the Creeks would have the "unrestricted right of self-government," with "full jurisdiction" over enrolled Tribe members and their property true or does the State of Oklahoma retain this right?



*The recent McGirt v. Oklahoma SCOTUS Decision of July 9<sup>th</sup>, 2020 has reestablished that the Muscogee Creek Nation, along with other Tribal Nations within the present State of Oklahoma, are indeed Reservations. The definition of "Indian country" includes "all land within the limits of any Indian reservation under the jurisdiction of the United States Government." The Muscogee Creek Nation along with 37 other Tribes within the borders of present day Oklahoma meet this definition of "Indian Country". The Treaty of 1833 fixed the borders for a "permanent home to the whole Creek Nation of Indians," and the United States promised to continue to uphold this promise, "so long as they shall exist as a nation, and continue to occupy the country hereby assigned to them", the Muscogee Creek Nation and its citizens still exist within that country.*

*Republican senator James Inhof of Oklahoma added a rider (Nongermane Amendment) to an otherwise benign transportation bill that has been cited by Mr. J. Kevin Stitt, Office of the Governor, State of Oklahoma. The Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) of 2005 made it illegal, (Against the Law), for federally recognized tribes residing within Oklahoma to operate environmental protection programs without first negotiating with the state government of Oklahoma even with EPA approved TAS status.*

**Nongermane Amendment** - *An amendment that would add new and different subject matter to, or may be irrelevant to, the bill or other measure it seeks to amend. Senate rules permit nongermane amendments in all but a few specific circumstances.*

*The use of a nongermane amendment to a Transportation Act should not allow the State to hold the natural resources and the environmental concerns within Tribal Reservations under control.*

*The Oklahoma Department of Environmental Quality workforce is under staffed and overburdened which has resulted in serious environmental impacts to the State of Oklahoma. The State needs environmental support from the tribes, through Traditional Ecological Knowledge (TEK) and advanced expertise of our tribal lands and natural resources, the tribes are here and willing to help all Oklahomans.*

*Working together on these environmental impacts should be celebrated and applauded not rejected and scorned. We can best improve the Land, Air and Water in Oklahoma by working together; we only ask to help, not to control. The request from Mr. Stitt should be reviewed and the fact that the Muscogee Creek Nation, along with other Tribal Governments within the present State of Oklahoma, are reservations and are entitled to the rights that this designation necessitates should be considered in this decision.*

Message

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**From:** Gee.Randy@epa.gov [Gee.Randy@epa.gov]  
**Sent:** 8/10/2020 7:20:21 PM  
**To:** ckreman [ckreman@quapawnation.com]  
**Subject:** Re: NTAA Webinar concerning McGirt case

Dropped the ball Craig; checking now.

Randy

Sent from my iPhone

On Aug 10, 2020, at 1:48 PM, Craig Kreman <ckreman@quapawnation.com> wrote:

Randy,

Were you able to check in with Tina Alvarado on the request concerning the NTAA webinar on the McGirt case?

Thanks

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Friday, July 31, 2020 2:54 PM  
**To:** Craig Kreman <ckreman@quapawnation.com>  
**Subject:** Re: NTAA Webinar concerning McGirt case

I don't know Joseph. His sister and my daughter were friends at Tahlequah High School and I met his dad through high band activities. I believe Sheila Sevenstar at ITEC and Joseph are cousins.

Sent from my iPhone

On Jul 31, 2020, at 2:45 PM, Craig Kreman <ckreman@quapawnation.com> wrote:

Joseph Byrd will become the new Chairman for Quapaw Nation on August 15<sup>th</sup> when they are sworn in at the next Business Committee meeting?

Do you know Joseph?

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Friday, July 31, 2020 2:44 PM  
**To:** Craig Kreman <ckreman@quapawnation.com>  
**Subject:** RE: NTAA Webinar concerning McGirt case

Hello Craig,

I can check with Tina Alvarado who is our tribal law attorney.

On another note, is Joseph Byrd now the Chairman for Quapaw Nation? We are updating our tribal contact list and didn't know when his term would start.

Have a good weekend.

Randy

---

**From:** Craig Kreman <[ckreman@quapawnation.com](mailto:ckreman@quapawnation.com)>  
**Sent:** Friday, July 31, 2020 2:17 PM  
**To:** Gee, Randy <[Gee.Randy@epa.gov](mailto:Gee.Randy@epa.gov)>  
**Subject:** NTAA Webinar concerning McGirt case

Randy,

We have been talking at NTAA about having a webinar around the decision from the McGirt case. Do you know of anyone in R6 that would be willing to talk to the decision?

I know we have Regional Counsel representation talk at the RTOC Meeting last week. I wonder if they would be willing to do the same thing for an NTAA webinar.

Thanks,

Craig Kreman, P.E.  
Environmental Engineer  
Quapaw Nation



Message

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**From:** Gee, Randy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=186E0AABC3E04D258DB13B8BFA93CDC4-GEE, RANDY]  
**Sent:** 8/14/2020 9:05:24 PM  
**To:** David Hill [dhill@mcn-nsn.gov]; Del Beaver [dbeaver@mcn-nsn.gov]; jwilliams@mcn-nsn.gov; Curtis Hicks [Hicks.Curtis@epa.gov]  
**Subject:** RE: Consultation  
**Attachments:** SAFETEA.OklahomaRequest.2020.7.22.pdf; 2005\_SAFETEA\_LU\_Oklahoma\_language\_9\_.pdf; cons-and-coord-with-indian-tribes-policy.pdf; Tribal Treaty Rights Guidance.pdf; Overview - EPAs Guidance for Discussing Tribal Treaty Rights.pdf

Thank you Principal Chief Hill, Second Chief Beaver and James for today's call on planning the tribal consultation on the SAFETEA impact on the Nation's reservation. Please see the attached documents for the consultation.

Curtis and I will get dates and times to coordinate with your schedules for the tribal consultation call.

Randy Gee  
EPA Region 6 Office of Communities, Tribes and Environmental Assessment  
Office Phone: 214-665-8355

---

**From:** Del Beaver <dbeaver@mcn-nsn.gov>  
**Sent:** Friday, July 24, 2020 8:23 AM  
**To:** Gee, Randy <Gee.Randy@epa.gov>  
**Cc:** David Hill <dhill@mcn-nsn.gov>  
**Subject:** Consultation

Good morning Mr. Gee,

I hope all is well at the EPA. As you know the Muscogee (Creek) Nation, and all of Indian Country, experienced a historic win with the ruling of the McGirt case. The Muscogee Nation would like to formally request a consultation meeting for an explanation of how the SAFETEA Act affects our reservation. If you could either forward our request to the appropriate person or let me know who to contact I would appreciate it. Mvto and have a good day.

Del Beaver

Message

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**From:** Gee.Randy@epa.gov [Gee.Randy@epa.gov]  
**Sent:** 8/10/2020 7:19:15 PM  
**To:** Alvarado, Tina [Alvarado.Tina@epa.gov]  
**Subject:** Fwd: NTAA Webinar concerning McGirt case

Tina-can you provide a McGirt update on the next NTAA webinar?

Sent from my iPhone

Begin forwarded message:

**From:** Craig Kreman <ckreman@quapawnation.com>  
**Date:** August 10, 2020 at 1:48:43 PM CDT  
**To:** "Gee, Randy" <Gee.Randy@epa.gov>  
**Subject:** RE: NTAA Webinar concerning McGirt case

Randy,

Were you able to check in with Tina Alvarado on the request concerning the NTAA webinar on the McGirt case?

Thanks

---

**From:** Gee, Randy <Gee.Randy@epa.gov>  
**Sent:** Friday, July 31, 2020 2:54 PM  
**To:** Craig Kreman <ckreman@quapawnation.com>  
**Subject:** Re: NTAA Webinar concerning McGirt case

I don't know Joseph. His sister and my daughter were friends at Tahlequah High School and I met his dad through high band activities. I believe Sheila Sevenstar at ITEC and Joseph are cousins.

Sent from my iPhone

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**From:** Gee, Randy <[Gee.Randy@epa.gov](mailto:Gee.Randy@epa.gov)>  
**Sent:** Friday, July 31, 2020 2:44 PM  
**To:** Craig Kreman <[ckreman@quapawnation.com](mailto:ckreman@quapawnation.com)>  
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I can check with Tina Alvarado who is our tribal law attorney.

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Have a good weekend.

Randy

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**From:** Craig Kreman <[ckreman@quapawnation.com](mailto:ckreman@quapawnation.com)>

**Sent:** Friday, July 31, 2020 2:17 PM

**To:** Gee, Randy <[Gee.Randy@epa.gov](mailto:Gee.Randy@epa.gov)>

**Subject:** NTAA Webinar concerning McGirt case

Randy,

We have been talking at NTAA about having a webinar around the decision from the McGirt case. Do you know of anyone in R6 that would be willing to talk to the decision?

I know we have Regional Counsel representation talk at the RTOC Meeting last week. I wonder if they would be willing to do the same thing for an NTAA webinar.

Thanks,

Craig Kreman, P.E.  
Environmental Engineer  
Quapaw Nation



**QUICK REFERENCE**  
**For EPA Staff**  
**EPA Policy on Consultation and Coordination with Indian Tribes:**  
**Guidance for Discussing Tribal Treaty Rights**

**What are treaties and how do they affect EPA's work?**

- Under the U.S. Constitution, treaties carry the same legal force as federal statutes.
- Treaties are legal obligations of the U.S. government. Just as EPA complies with environmental statutes and regulations, EPA also needs to ensure that its actions under those statutes and regulations do not conflict with tribal treaty rights.
- Treaties do not expand EPA's statutory authority, but treaty rights can limit or inform otherwise lawful action if the action would infringe on a treaty right.
- Treaty rights can also inform how EPA exercises its discretionary authority.
- Treaty rights can apply in areas within and outside of Indian reservation boundaries.

**When do I need to consider Tribal Treaty Rights (TTR) in my work?**

- Under the *EPA Policy on Consultation and Coordination with Indian Tribes (May 2011)*, EPA consults with federally recognized tribal governments on actions that may affect tribal interests. The *Guidance for Discussing Tribal Treaty Rights (Feb 2016)* complements these tribal consultations by guiding TTR discussions during tribal consultations where three conditions exist:
  - When EPA has decided to consult on an EPA action or decision,
  - The EPA action occurs in a specific geographic location,
  - A resource-based treaty right (*e.g.*, hunting, fishing, or gathering) is identified, or an environmental condition necessary to support the resource is present in the specific geographic location.

**How can I find the treaties in my Region?**

- EPA has created a searchable Excel Tool that lists many treaties by tribal name with links to the treaty language.
- Using desktop GIS mapping and other tools available to EPA staff, OITA can help EPA staffers determine when a treaty and its related resources may exist within the specific geographic area of the proposed action.
- OGC and ORC Indian law attorneys also can help in determining when a treaty exists in the area and how it may relate to EPA's action.

**Who at EPA can answer my questions about TTR?**

- You can find the Guidance and supporting materials at <http://intranet.epa.gov/aieo/consultation.htm>
- For legal question contact:
  - Regions– Regional Office of General Counsel
  - Headquarters – Office of General Counsel – Tony Guadagno (202-564-5537) and Lauren Maher (202/564-9888)
- For any questions on accessing TTR documents or resource tools contact:
  - AIEO– Elle Chang (202-564-2956)

Message

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**From:** Gee.Randy@epa.gov [Gee.Randy@epa.gov]  
**Sent:** 8/19/2020 5:30:12 PM  
**To:** rgeeoos@aol.com  
**Subject:** Fwd: TLEF Notes  
**Attachments:** TLEF Notes.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Gee, Randy" <Gee.Randy@epa.gov>  
**Date:** August 19, 2020 at 9:37:00 AM CDT  
**To:** "Berrios, Lisa" <Berrios.Lisa@epa.gov>, "Cruz, Abigail" <cruz.abigail@epa.gov>, "Wilson, Erika" <Wilson.Erika@epa.gov>  
**Subject:** TLEF Notes

Good morning,

I wrote out notes for my questions today; they are attached.

Randy Gee  
EPA Region 6 Office of Communities, Tribes and Environmental Assessment  
Office Phone: 214-665-8355



## TLEF Notes

Randy – Welcome to the training! *[Question 1]* First, can you please briefly introduce yourself to everyone, including your title and the type of work you do?

*Thank you Lisa. Good afternoon, my name is Randy Gee, and I am the Tribal Affairs Team Leader in EPA Region 6. I have been with EPA for thirteen years, and before coming to EPA I was at Cherokee Nation Environmental Programs for ten years. I am Muscogee (Creek) and Navajo. In my position I manage the Region's General Assistance Program (GAP) grant program with six of the best team members I could ask for. I also serve as the Region's Tribal Consultation Advisor, and I also work with our program offices and assist them in their direct implementation work with our tribal partners.*

*[Question 2]* Thank you! Now that you've heard the videos from Jerry and Deb, can you speak to us about creating an inventory of regulated entities in your Region? Are there similarities – differences?

*I would say a little of both. When we started working with our tribal partners in 2012 on ETEP planning, we reached out to EPA Regions such as Region 5 who had developed Tier 2 Tribal Environmental Agreements (TEAs), which were the forerunners of today's ETEPs. We used this information to develop a template to assist our tribal partners in developing their initial ETEPs. For the inventory of regulated entities section, our office worked with our program offices to obtain regulated facility information (for example, public water systems, USTs, NPDES permits), for each of our tribal partners that we shared as part of the template. But also, as part of this effort, we encouraged each tribal partner to add their own regulated entities of interest. With many of our tribal partners in checkerboarded areas where the state environmental department was the primacy agency for some of these entities, the tribal partner could expand this section to meet their priorities.*

*As part of the follow-up to this section, our office works with our program offices to share the Region's direct implementation work at these entities, whether sanitary surveys, inspections, permit renewals or other work. We also assist our tribal partners when they are seeking information on entities regulated by the state environmental agency. Some of these entities are further prioritized by our Tribal Caucus, such as the Region 6 work with Department of Energy Los Alamos National Laboratory, and we update/share information with a larger group. I look forward to the next module on how our Region can better use this information to assist our tribal partners.*

*[Question 3]* Thank you! Lastly, I know there are multiple and different jurisdictional situations in Region 6. Can you talk about creating an ETEP with a tribe that has limited jurisdiction?

*Sure. As you mentioned we do have some tribal partners with little to no land base and limited jurisdiction. Our team works to make sure each tribal partner is aware that GAP activities and ETEP priorities can include working with other tribal programs, community members and neighboring entities, as well as priorities focused on land-based issues and regulated facilities. For example, one of the priorities that relates to tribal buildings and community members is indoor air quality, which we see in many of the Region 6 ETEPs. Another is community outreach*

*on environmental concerns and issues, which is another priority for our tribal partners in Region 6. Priorities such as these can be included in an ETEP for a tribal partner with a large land base and several facilities or a tribal partner with a limited land base and jurisdiction.*

*The one constant is change, and we see circumstances and priorities change year to year. When we developed our ETEP template we advised our tribal partners to keep their ETEP priorities broad, so changing priorities could be factored in. A tribal partner with no land in trust status may have that circumstance change, and now they can apply for CWA 106 TAS. Our Region prioritized the last couple of years sampling drinking water at tribal schools and child-care facilities, a priority no one forecasted in 2012 and wasn't based on land size or tribal population. The most recent example is the McGirt Supreme Court decision, which held that Congress created a reservation with the Muscogee (Creek) Nation through multiple treaties and never disestablished that reservation. This is impacting other tribal partners in addition to Muscogee (Creek). We could be adding a lot of entities of interest to our next ETEP revisions. Thank you.*

Message

---

**From:** Gee, Randy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=186E0AABC3E04D258DB13B8BFA93CDC4-GEE, RANDY]  
**Sent:** 8/19/2020 2:37:04 PM  
**To:** Berrios, Lisa [Berrios.Lisa@epa.gov]; Cruz, Abigail [cruz.abigail@epa.gov]; Wilson, Erika [Wilson.Erika@epa.gov]  
**Subject:** TLEF Notes  
**Attachments:** TLEF Notes.docx

Good morning,

I wrote out notes for my questions today; they are attached.

Randy Gee  
EPA Region 6 Office of Communities, Tribes and Environmental Assessment  
Office Phone: 214-665-8355

Message

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**From:** Gee, Randy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=186E0AABC3E04D258DB13B8BFA93CDC4-GEE, RANDY]  
**Sent:** 8/17/2020 6:12:21 PM  
**To:** Childers, Pat [Childers.Pat@epa.gov]  
**CC:** Alvarado, Tina [Alvarado.Tina@epa.gov]  
**Subject:** RE: good 1 or 2 pager on mcgirt current status do yiu have one? EOM  
**Attachments:** we\_care\_briefing\_MCN\_SAFETEA.docx

Hello Pat,

This is our sheet we used to brief our RA for the Muscogee SAFETEA tribal consultation.

Randy

---

**From:** Childers, Pat <Childers.Pat@epa.gov>  
**Sent:** Monday, August 17, 2020 12:31 PM  
**To:** Gee, Randy <Gee.Randy@epa.gov>  
**Subject:** FW: good 1 or 2 pager on mcgirt current status do yiu have one? EOM

Hey Randy

Hope you are well. Do you have a good overview internal one or two pager on mcgirt and safetea (or either one separately). I want to bring Betsy up to speed on issue and want to make sure I get it right.

Pat

---

**From:** Byrne, Andrew <Byrne.Andrew@epa.gov>  
**Sent:** Monday, August 17, 2020 1:29 PM  
**To:** Childers, Pat <Childers.Pat@epa.gov>; Wright, Felicia <Wright.Felicia@epa.gov>  
**Subject:** RE: good 1 or 2 pager on mcgirt current status do yiu have one? EOM

Hey Pat – sorry, we haven’t created or receiving anything like this in the past month. Try OGC?

**Andy Byrne**

American Indian Environmental Office  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency  
(202) 564-3836 (desk)  
(202) 322-8607 (mobile)

Creating Tangible Environmental Results with Tribes  
Find out more at [www.epa.gov/tribal](http://www.epa.gov/tribal)

---

**From:** Childers, Pat <Childers.Pat@epa.gov>  
**Sent:** Monday, August 17, 2020 12:09 PM  
**To:** Byrne, Andrew <Byrne.Andrew@epa.gov>; Wright, Felicia <Wright.Felicia@epa.gov>  
**Subject:** good 1 or 2 pager on mcgirt current status do yiu have one? EOM

Message

---

**From:** Byrne, Andrew [Byrne.Andrew@epa.gov]  
**Sent:** 7/9/2020 4:06:14 PM  
**To:** Alvarado, Tina [Alvarado.Tina@epa.gov]  
**CC:** Gee, Randy [Gee.Randy@epa.gov]; Vaught, Daniel [vaught.daniel@epa.gov]  
**Subject:** RE: McGirt discussion

Tina – I forwarded you the 1.5 hour meeting invite. We can slot you in for the time that works best for you and Tod so that you don't have to be on for the whole call.

**Andy Byrne**

American Indian Environmental Office  
Office of International and Tribal Affairs  
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---

**From:** Alvarado, Tina <Alvarado.Tina@epa.gov>  
**Sent:** Thursday, July 9, 2020 11:27 AM  
**To:** Byrne, Andrew <Byrne.Andrew@epa.gov>  
**Cc:** Gee, Randy <Gee.Randy@epa.gov>; Vaught, Daniel <vaught.daniel@epa.gov>  
**Subject:** RE: McGirt discussion

Can you send me an invite for my calendar?

---

**From:** Byrne, Andrew <Byrne.Andrew@epa.gov>  
**Sent:** Thursday, July 09, 2020 10:23 AM  
**To:** Alvarado, Tina <Alvarado.Tina@epa.gov>  
**Cc:** Gee, Randy <Gee.Randy@epa.gov>; Vaught, Daniel <vaught.daniel@epa.gov>  
**Subject:** RE: McGirt discussion

Excellent, thanks Tina. We aim to send the agenda out on Monday prior to the Thursday call. We'll check in with you at that time, if it works. Perhaps 15 minutes on the agenda? We can discuss next week.

Thanks.

**Andy Byrne**

American Indian Environmental Office  
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---

**From:** Alvarado, Tina <Alvarado.Tina@epa.gov>  
**Sent:** Thursday, July 9, 2020 11:10 AM

**To:** Byrne, Andrew <[Byrne.Andrew@epa.gov](mailto:Byrne.Andrew@epa.gov)>  
**Cc:** Gee, Randy <[Gee.Randy@epa.gov](mailto:Gee.Randy@epa.gov)>; Vaught, Daniel <[vaught.daniel@epa.gov](mailto:vaught.daniel@epa.gov)>  
**Subject:** RE: McGirt discussion

I can do that. Tod and I are reading the opinion now and will prepare something for folks. Should have it by next Thursday.

---

**From:** Byrne, Andrew <[Byrne.Andrew@epa.gov](mailto:Byrne.Andrew@epa.gov)>  
**Sent:** Thursday, July 09, 2020 10:06 AM  
**To:** Alvarado, Tina <[Alvarado.Tina@epa.gov](mailto:Alvarado.Tina@epa.gov)>  
**Cc:** Gee, Randy <[Gee.Randy@epa.gov](mailto:Gee.Randy@epa.gov)>; Vaught, Daniel <[vaught.daniel@epa.gov](mailto:vaught.daniel@epa.gov)>  
**Subject:** McGirt discussion

Hi Tina –

Interesting news this morning! You may know that AIEO hosts a biweekly call with the tribal program liaisons from the regions and HQ offices (ex: Randy is the R6 rep). Our next call is next Thursday, July 16<sup>th</sup>. Would you be interested in discussing the McGirt case? If next week is too soon then perhaps on a future call? A mixture of the legal reasoning and what the program implications may be would be very interesting.

Thanks Tina!

**Andy Byrne**  
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